



## Response to Request for Information

Reference      FOI 071565  
Date            14 July 2015

### *Independent Living Fund*

#### Request and response in 'blue':

"I am seeking answers to the following questions regarding the devolution of the Independent Living Fund (ILF) and associated monies to your authority.

Could you please let me know:

- 1) Has the DWP or the ILF trust told your authority how much Independent Living Fund money will be devolved to your council until 2016? **Yes**
- 2) If Yes, when did the DWP/ILF trust pass that information to your authority?  
**1<sup>st</sup> July 2015**
- 3) What is the total amount of the devolved funds? **£825,192**
- 4) Has the DWP/ILF trust told your authority how many Independent Living Fund recipients reside in your borough and how much ILF money individual ILF recipients received in their individual care packages? **Yes**
- 5) At the date of this email, how many of those ILF recipients have had their care cases and needs reviewed to determine the levels of care support and funding that they will require when the ILF closes on 30 June? **100%**
- 6) How many ILF recipients have not had their cases assessed yet? **None**
- 7) Does the authority expect to be able to meet the care costs of all ILF recipients to the same level as ILF funding? **Yes**
- 8) Has your authority had any indication from the DWP that ILF funding will continue to be devolved to your council after 2016? **No**
- 9) Have any former ILF recipients had their night care hours/night care packages cut or removed after reassessment by the council for ILF devolution? If Yes, how many people, and what care alternatives have they been given to cover night hours (for example, have people been instructed to use incontinence pads through the nights, etc) **No**

[NOT PROTECTIVELY MARKED]

- 10) Please send all general email correspondence that your authority received from the DWP in the last six months regarding the devolution and management of the ILF closure." [Attached](#)



Independent  
Living Fund

Equinox House  
Island Business Quarter  
City Link  
Nottingham NG2 4LA

Phone: 0845 601 8815  
or 0115 945 0700

[www.gov.uk/ilf](http://www.gov.uk/ilf)

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14 May 2015

Dear #

#

We are writing to remind you that the ILF is closing on 30 June 2015 and to provide further information to support your transfer to the new arrangements.

In June you will receive two payments from the ILF. Based on the information we currently hold, one will be for £# which is your normal four-weekly ILF award and the second will be for £# to cover your care costs from # June to 30 June 2015. This amount could be subject to change should there be any alterations to your award before the ILF closes. If we currently reduce your award due to an overpayment, this deduction will be taken off the amount shown above.

The service we are able to provide in June will be changing. Please send any requests for one-off or additional payments by **1 June 2015**. After these dates, we cannot guarantee that your request can be processed before we close. Our phone lines will remain open to answer any general enquiries until midday on **Friday 26 June** after which all enquiries will need to be made to your local authority.

If you have not already done so, it is important that you contact your local authority before the ILF closes to make sure you are clear of how your support needs will be met from 1 July 2015.

The bank account details that the ILF holds for you will not be passed on to your local authority, so please contact them to ensure the information they hold is up to date.

Textphone: 0845 601 8816  
Fax: 0115 945 0945  
Email: [funds@ilf.gsi.gov.uk](mailto:funds@ilf.gsi.gov.uk)



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The contact details we have for your authority are –

After we have closed, your paper file will be transferred to the Department for Work and Pensions (DWP). This will be kept in secure storage for two years and then destroyed. If you have any queries about your records after the ILF has closed, the Data Protection Act 1998 gives you the right to access the information held about you. Requests should be made in writing to your local DWP office.

For more information see <https://www.gov.uk/government/publications/dwp-request-for-personal-information>

We are proud of what we have achieved as an organisation over the past 27 years in being able to support people to live independently. I hope that the information and service we have provided during the transfer programme has helped support you during the closure of the organisation.

We wish you all the very best for the future.

Yours sincerely

James Sanderson  
**Chief Executive**



Independent  
Living Fund

Equinox House  
Island Business Quarter  
City Link  
Nottingham NG2 4LA

Phone: 0845 601 8815  
or 0115 945 0700

[www.dwp.gov.uk/ilf](http://www.dwp.gov.uk/ilf)

24 June 2015

Dear Colleague

Over the past 27 years the Independent Living Fund (ILF) has provided support to over 46,000 disabled people. Since 1988, the organisation has been able to develop a significant body of expertise and learning regarding independent living support.

“Twenty-seven” presents this learning through a series of articles, each penned by a different author, and captures 27 distinct learning points about how the organisation operated and what worked well.

James Sanderson, CEO of the ILF said “Before we close on 30 June 2015, our Trustees and Executive team wanted to ensure that we captured our intellectual capital in order that our learning could be used by others operating in the field of independent living support for disabled people.”

James went on to say “Thank you to all those who contributed to the publication especially ILF staff, assessors and partners of the ILF over the past 27 years.”

Please follow the link to read the publication: - [“twenty-seven-independent-living-fund-report.pdf”](#) . We hope that it will be useful and please do feel free to share it with colleagues.

In the run up to closure the ILF has written to each ILF users at the 6-month, 3-month and 1-month point in line with the ILF Communication Plan. Following the final 1-month notice letter we continue to receive calls for users and their advocates. Common themes include concern that users expect a decrease in their support package following ILF closure and that they haven’t heard from their local authority. Where possible we have tried to support users to contact their local authority for advice and information.

Textphone: 0845 601 8816

Fax: 0115 945 0945

Email: [funds@ilf.gsi.gov.uk](mailto:funds@ilf.gsi.gov.uk)

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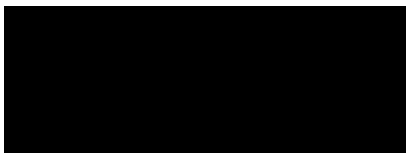


The Government Standard

We understand from conversations with many local authorities that some plan to ring-fence the Section 31 grant from Department Communities and Local Government for ILF users specifically. Some plan to use the funding more widely for adult social care in general. Obviously these will be decisions to be made by each local authority at a local level and we will continue to support local authorities with enquiries regarding the ILF until closure on 30 June.

We hope that we have helped to prepare you for transfer and if you have any concerns please do contact us.

Regards



Jesse Harris  
Social Work Director, ILF



Independent  
Living Fund

# Employer support

## **What is this booklet for?**

This booklet has been written to help you if you currently employ your own personal assistants (PAs) or if you may want to do so in the future.

It has information about the law, how to deal with difficult situations and a section covering some of the problems you might find as an employer. There is also a section with useful contact details and a checklist for you to use to help you in your role as an employer.

After the ILF closes on 30 June 2015 you might want to continue to employ your own PA or you may begin to do this for the first time. The information in this booklet will help you with that.

If you need more information or advice you can contact Acas, their details are on page 24.

This booklet had been produced in partnership with Acas. We have also consulted with a number of people who receive ILF funding to gain their advice and support.



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## **What the law says**

### **A unique relationship**

Hiring a personal assistant (PA) can be very empowering, but it often sets up a unique and sometimes challenging employment relationship.

You may find yourself taking on the role of employer for the first time, and be uncertain of many of the responsibilities and legal obligations that this role brings. Sometimes your PA may also be uncertain about their rights.

Getting your recruitment right is really important and you need to make sure you know your legal responsibilities when recruiting and managing staff.

Both you and your PA should feel able to deal with any issues, as they arise, together.

The employment relationship between you and your PA may be more complex than other employment relationships because of the combination of intimacy and informality of the tasks they do, alongside the formalities of a legal employment relationship.

It's always useful to discuss things when your PA starts work to set out what you want them to do as well as telling them how you want things to be done and introducing them to the environment in which they will work. You could try adding in regular reviews to help to build a good working relationship.

## **Contracts of employment**

A contract of employment is an agreement between you and your PA which sets out their employment rights, responsibilities and duties. These are called the 'terms' of the contract.

Employment contracts do not need to be in writing to be legally valid. However it is always better if the contract is in writing to prevent misunderstandings.

A contract 'starts' as soon as an offer of employment is accepted. Once your PA starts work this can indicate that they have accepted the terms and conditions offered by you, the employer.

Your PA is legally entitled to a written statement of the main terms and conditions of employment within two calendar months of starting work. This should include details of things like pay, holidays and working hours.

A template is available to download from the Acas website on [www.acas.org.uk](http://www.acas.org.uk)

## **Making changes to a contract**

You should discuss and agree any changes to the contract of employment with your PA, recording these changes in writing rather than verbally is always best.

If the PA doesn't agree to a change you make they may be able to make a complaint for breach of contract or unfair dismissal. You should contact the Acas helpline on **0300 123 1100** if you feel this might happen.

## **Ending an employment contract**

The contract of employment could be ended by mutual agreement between you and your PA or by either of you submitting the required notice for the termination of employment.

By law, if your PA has worked for you for longer than one month, you will need to give them notice before letting them go. You must give them statutory notice (see below) or the notice defined in their contract, whichever is the longer.

The statutory notice is:

- one week if the PA has been employed between one month and two years; or
- one week for each complete year of employment (up to a maximum of 12 weeks) for example, for two years of employment the notice period will be two weeks, for six years of employment the notice will be six weeks.

## **Rules and performance standards**

Clear rules will benefit your PA and set standards of conduct for your relationship. Rules can also help you to act fairly and consistently.

Rules often cover things like:

- timekeeping;
- absence issues;
- health and safety;
- use of your facilities;
- discrimination, bullying and harassment;
- personal appearance; and
- disciplinary and grievance procedures.

Be sure that the rules do not discriminate on the grounds of sex, transgender, marital or civil partnership status, pregnancy and maternity, race, sexual orientation, religion or belief, disability or age.

You should tell your PA what is expected of them and let them know what they will be doing and how you want things done. Having regular chats about progress and ensuring that they are clear on expectations can be useful.

Writing down the rules helps both you and your PA to know what is expected of them. The rules should be clear. Ideally your PA should be given their own printed copy of the rules or written information about where they can be found.

## **When things go wrong - handling difficult situations**

There may be times when you want your PA to improve their behaviour or work performance. In best practice terms, where possible, it's better to take informal steps to try to deal with a situation. A quiet word may be all that is needed to resolve an issue.

Sometimes it's not easy in a close personal working relationship to be able to raise an issue with your PA. However it is good practice to have clear steps for both of you to be able to raise issues or problems with each other. Having job descriptions and other written documents can help to set some ground rules.

It may also be helpful to get someone in to take the lead, possibly a family member or friend to help the process. It may also be useful to consider mediation if the situation warrants it. For more information on mediation visit the Acas website on [www.acas.org.uk](http://www.acas.org.uk)

Be careful that any informal action does not turn into formal disciplinary action, as in a formal situation your PA has certain rights (such as the right to have somebody with them at meetings). If, during the discussion, it becomes clear that the matter may be more serious, the meeting should be suspended. You should tell your PA that the matter will be dealt with under the formal disciplinary procedure.

## **The disciplinary stages**

In the event that a problem cannot be dealt with informally try to follow the Acas Code of Practice on disciplinary and grievance procedures found at [www.acas.org.uk](http://www.acas.org.uk). This means you should let your PA know in writing what the issue is and:

- hold a meeting to discuss the issue. You should make sure you let your PA know that the meeting will happen and what things will be discussed;
- tell your PA that they have the right to have somebody at the meeting with them if they wish;
- with the evidence you have, make a decision; and
- always allow your PA to appeal against your decision.

If after talking to your PA, it becomes clear that there isn't a problem let your PA know this.

Where things need to improve make sure your PA understands what needs to be done, how their performance or behaviour will be reviewed, and over what period. It is always useful to write down what has been decided.

Keep notes of any agreed informal action so these can be referred to and arrange to hold reviews of progress at agreed times.

If you need to take action against your PA, you should normally do this in stages, firstly by giving a formal warning, then if matters don't improve a final written warning and finally dismissal.

For gross misconduct (such as theft, violence or fraud) an employer can dismiss an employee without notice - this is called a summary dismissal. You should however still investigate the circumstances before making a summary dismissal and follow a fair process even in these cases.

Having disciplinary procedures in place will help you if your PA has not met the required standards of behaviour or performance and you have tried the informal approach.

Acas can provide you with help and advice if you face this type of situation. You can contact them on **0300 123 1100**.



# **The right behaviours and avoiding discrimination**

## **Equality**

The equality act became law in October 2010. It provides a legal framework to protect the rights of individuals and it applies in the workplace. If you employ your own PA you need to make sure you meet your responsibilities as set out in the equality act. In England, Scotland and Wales the Equality and Human Rights commission has lots of information on its website about how the equality act affects you if you are an employer. Visit [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The Equality Commission for Northern Ireland provides information about meeting your equality duties as an employer in the workplace in Northern Ireland. Visit [www.equalityni.org](http://www.equalityni.org)

In England, Scotland and Wales you can also contact the Equality Advisory and Support Service (EASS) for advice on matters relating to equality. Their details are:

**Website:** [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

**Telephone:** 0808 800 0082

**Textphone:** 0808 800 0084

## **Avoiding discrimination**

Under the Equality Act it is unlawful to discriminate against people who have 'protected characteristics'. You cannot treat someone less favourably because of their particular characteristics. This is known as direct discrimination.

The protected characteristics include age, disability, gender reassignment, sexual orientation, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sex.

Examples of direct discrimination include not hiring someone because they are female or dismissing someone because they are pregnant.

Indirect discrimination occurs if you do not have a good enough reason for a rule, practice or policy that is in place that disadvantages your PA who has a protected characteristic.

For example, saying you need an assistant to be over six foot tall so they can reach high shelves in the house could be indirect sex discrimination as this is more likely to be met by a man than a woman. This part of the job could be met by providing a step ladder and so does not require a person of a certain height.

If you have any worries about discrimination, advice is available through the Acas helpline on **0300 123 1100**.

## **Exemptions - occupational requirement**

In a limited number of circumstances you may be able to show that a particular protected characteristic is

central to a particular job. You may then be able to insist that only someone who has that particular protected characteristic is suitable for the job. This would be called a ‘genuine occupational requirement’.

*For example -*

A women’s refuge may want to say that it should be able to employ only women as counsellors. Its client base is only women who are experiencing domestic violence committed by men. This might be a genuine occupational requirement.

## **Harassment and bullying**

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. The definition of harassment is -

*“unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”*

The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

A PA can complain of behaviour that they find offensive even if it is not directed at them.

If you are unsure about the requirements of the Equality Act 2010 you can call the Acas helpline on **0300 123 1100** for free and impartial advice.

## Other employment information

### Working hours

The working time regulations govern the hours most staff can work, although there are some exemptions - more details can be found on the Acas website [www.acas.org.uk](http://www.acas.org.uk)

### The 48 hour working week

Normally most workers do not have to work on average more than 48 hours per week unless they agree to. Even if they do agree they have the right to opt out at any time by giving notice.

If you need to change patterns of working it is best to discuss this with your PA first. For more information call Acas helpline on **0300 123 1100**.

### Providing a pension

Between 2012 and 2018 employers will have a new legal duty to help their employees save for retirement.

As an employer, you'll have duties to anyone working for you who earns above a certain amount and:

- who is aged between 16 and 74;
- who works in the UK; and
- for whom you deduct income tax and National Insurance contributions from their wages.

In some cases you may need to automatically enrol your staff into a qualifying workplace pension scheme and make contributions towards it in. In other cases you

may need to simply offer a scheme to your employees. The action you need to take will depend on how much your PA earns.

The Pensions Regulator has a beginners guide to auto enrolment. More information can be found at [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

### **Maternity, paternity and adoption rights**

Your PA is allowed to have maternity, paternity or adoption leave and may also be entitled to pay while they take this leave depending on how much they earn.

If a PA is not entitled to statutory maternity pay they may be able to claim maternity allowance.

Pregnant PAs are entitled to paid time off for ante-natal care and 52 weeks' maternity leave – made up of 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave.

Fathers and partners (including same-sex and civil partners) may be entitled to two weeks' paternity leave.

The position is similar where a child is adopted.

For more information visit [www.gov.uk/maternity-pay-leave](http://www.gov.uk/maternity-pay-leave)

From April 2015 a mother may want to share up to 50 weeks of her maternity leave with the father. This is called "Shared Parental Leave". More information can be found at [www.acas.org.uk](http://www.acas.org.uk)

## **Redundancy**

Redundancies can happen when employees are dismissed because their job no longer exists.

## **Notice periods**

You will need to give your PA notice if they have worked for you for over a month. The statutory notice periods are:

- at least one week's notice if your PA has been employed between one month and two years;
- one weeks notice for each year of employment between two years and 12 years; and
- 12 weeks notice for someone who has been employed for 12 or more years.

## **Redundancy pay**

If you have to make a PA redundant you may need to give them some redundancy pay. The amount you need to pay will depend on how long they have worked for you, how old they are and how much pay they receive. The GOV.UK website has an online calculator to help with this or you can get advice from Acas or the Citizens Advice Bureau (CAB).

## **Employer Liability Insurance (ELI)**

If you need some legal advice or face a redundancy situation, you should talk to your ELI provider before taking any action.

## **Health and safety**

You have a legal responsibility to make sure that your PA remains safe and healthy whilst doing their job.

You must:

- carry out some risk assessments on your home, including pets or any animals you keep;
- think about any training your PA needs if you find risks;
- tell your PA about health and safety, including fire safety;
- record (and possibly report) any accidents that take place in your home; and
- take out employers' liability insurance.

If you employ more than five people you will need a health and safety policy. The Health and Safety Executive website has lots of support and free leaflets, including a model policy.

For more information visit the Health and Safety Executive website at [www.hse.gov.uk](http://www.hse.gov.uk)

## Handy tips

There are so many things to think about when you employ your own staff.

This section might give you a flavour of the kind of issues that may arise from employing your own PA. We can't cover every situation or every answer, as often it will depend on your own situation, but the information may give you a few handy tips. You will also find some useful contacts at the back of this booklet.

**Q:** Louise is having some problems with her PA arriving late and not doing her job properly. The PA has got young children and so often arrives late which means Louise gets up later and is sometimes late for work herself. Also the PA is not cleaning the house properly so Louise often asks her Mum to do some of the jobs again. The PA has worked for Louise for years and they are good friends. Louise does not know what she can do in this situation.

**A:** As an employer Louise must look after her employee's rights but she also needs to make sure work is being done properly. Louise may need some help with looking at performance management which can be tricky. Acas are experts in employer/employee relationship management and have a helpline to offer advice about issues like this.



- Q:** Lisa's PA has accused her of treating her unfairly. She said she has been rude to her and that she makes her do all the hard work while her other PA gets the easy jobs. Lisa doesn't know what to do about this.
- A:** Lisa's PA may feel she is receiving unfair treatment and it is important they talk about this concern rather than ignoring it. Left alone the issue may build into a bigger problem that could result in some type of formal grievance being raised. It would be wise to get some advice now and nip this problem in the bud. Acas are able to offer advice and support regarding disputes and problems of this type.
- Q:** Anita's PA is pregnant and is struggling to do some of the tasks she normally does. Anita needs to know what to do about this.
- A:** Anita will need to do a risk assessment for her PA. If risks are found that cannot be avoided by making changes Anita must take action to remove, reduce or control the risks. The Health and Safety Executive (HSE) offer information on their website about risk assessments and health and safety. If risks cannot be removed Anita will need to either:
- temporarily adjust working conditions and/or hours of work; or

- offer suitable alternative work (at the same rate of pay) if available. Or if that cannot be done suspend her from work on paid leave for as long as is necessary, to protect her health and safety and that of her child.

Acas can offer Anita advice and support about this.

**Q:** Paul's partner has moved in with him and is now providing some of his support. This means that he needs less paid support and will need to let his PA go. His PA is saying he needs to pay him redundancy money but Paul doesn't think he does because it's not his fault he doesn't need the support anymore. Is this right?

**A:** Redundancy is a complicated area and Paul should get advice about this. Redundancy pay must normally be paid if a person has been employed for over two years by the same employer and where the need for their services has gone (for example when a shop goes bankrupt). In Paul's case the need for his PA has gone because his partner is now supporting him. The PA may be due some redundancy pay depending on the circumstances. Paul should consider contacting Acas for advice.

- Q:** Caroline's PA stays at her house three nights a week in case Caroline needs any help. It doesn't happen very often but there have been a few occasions where she has got up to support her. Her PA is now saying that her pay should go up so she gets the national minimum wage (NMW) at night. Is she right?
- A:** Maybe. It depends on lots of things. The rules around NMW at night have changed recently so it would be a good idea to get some advice. Acas or HM Revenue and Customs (HMRC) may be able to help Caroline with this. Their contact details are on page 26.
- Q:** Freya has taken on a new PA who says she is self-employed. She wants to know if this can be the case.
- A:** This can be difficult to work out as it depends on different things such as whether the PA works for other people as well as her, whether the PA can decide when or how the work is done and whether someone else can be sent to do the work for her. There are other signs that may show if a PA is employed or self-employed and these can be found by contacting HMRC who specialise in these matters. Acas can also advise on this area.

# Employer checklist

- This checklist might help you in your role as an employer. It contains a list of key tasks you may need to do or things to think about before you become or while you are an employer.

Advertise for and recruit staff	
If you live in England, Wales or Northern Ireland do a Disclosure and Barring Service (DBS) check  If you live in Scotland look into whether the applicant is registered on the protecting vulnerable group's (PVG) scheme. If not, ask them if they would volunteer to do so	
Discuss terms and conditions and draw up a contract	
Register your PA with HMRC	
Make payroll arrangements (are you going to do it yourself or arrange for someone else to do it for you? There are computer packages available that can make payroll easier to do yourself)	
Do a risk assessment and make changes or arrange training resulting from this	
Ensure working time regulations and national minimum wage rules are followed	

Put money aside to pay for national insurance costs and for replacement support while your PA is taking paid annual leave	
Get an Employers Liability Insurance (ELI) policy	
Find out information about employer rights such as statutory sick pay, statutory maternity pay and annual leave	
Make arrangements for a workplace pension and put money aside for this where necessary	
Find out information about discipline and grievance issues	
Find out information about health and safety, what do you need to do and what equipment you need to have available	

## **Helpful links and contacts**

### **Acas**

Acas offer free advice to employers and employees on a wide range of employment matters. They have a website and telephone helpline.

**Acas helpline:** 0300 123 1100

**Website:** [www.acas.org.uk](http://www.acas.org.uk)

### **Centres for Independent living (CIL)**

CIL are based locally and offer a range of support and services including, in many cases, a payroll support service that could help you in your role as an employer.

By searching on the internet you should be able to find the services that are located near to you.

### **Citizens Advice Bureau (CAB)**

CAB provides free, independent, confidential and impartial advice and information on a wide range of issues including matters relating to employment.

**For England and Wales the website address is:**

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

**For Scotland it is:** [www.cas.org.uk](http://www.cas.org.uk)

**For Northern Ireland it is:** [www.citizensadvice.co.uk](http://www.citizensadvice.co.uk)

A telephone advice service is being developed and is already available in Wales and parts of England. Further details are available on the website.

If you need to see somebody face to face you can find out where your local CAB is using the on-line search tool and contact them directly.

### **Equality and Human Rights Commission (England, Wales and Scotland)**

The Equality and Human Rights Commission have a website with a wide range of information about the equality act, discrimination and human rights and how this affects you as an employer.

There are leaflets that can be downloaded on a range of topics from ‘What equality law means for you as an employer: when you recruit someone to work for you’ to ‘What equality law means for you as an employer: dismissal, redundancy, retirement and after a worker has left’.

**Website link for guidance:** [www.equalityhumanrights.com/private-and-public-sector-guidance/employing-people](http://www.equalityhumanrights.com/private-and-public-sector-guidance/employing-people)

**Main website:** [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### **Equality Advice and Support Service (EASS)**

EASS can offer advice and support in England, Scotland and Wales on matters relating to equality.

**Website:** [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

**Telephone:** 0808 800 0082

**Textphone:** 0808 800 0084

## **Equality Commission for Northern Ireland**

The Equality Commission Northern Ireland has information about meeting your equality responsibilities as an employer in Northern Ireland.

**Website:** [www.equalityni.org](http://www.equalityni.org)

## **GOV.UK**

The website GOV.UK has a wide range of information ranging from benefits to passport renewals. The website also has a section about employing people.

**Website:** [www.gov.uk](http://www.gov.uk)

## **HMRC (HM Revenue and Customs)**

The HMRC website provides a wide range of information ranging from National insurance queries through to information about workplace pensions. You will find forms on the website you may need to use (for example about maternity pay) and also tools to help you work out if your PA is entitled to things like sick pay and how much money they can have. There is also a tool to allow you to send e-mails straight through to HMRC about things like statutory sick pay.

**Website:** [www.gov.uk](http://www.gov.uk)

HMRC can also offer advice and support through their helplines:

**Employer helpline-general enquiries:** 0300 200 3200

**Employer helpline-textphone:** 0300 200 3212

**New employers helpline:** 0300 200 3211



## **HSE (Health and Safety Executive)**

HSE are responsible for making sure employers look after the health and safety of their staff.

They have a website with information and also an on-line advice tool.

**Website:** [www.hse.gov.uk](http://www.hse.gov.uk)

## **Skills for care**

Skills for care has a toolkit to support you if you employ your own PA. The interactive tool enables you to search and immediately access the information you are most interested in.

It contains links to different sections within the toolkit and the useful templates. It also contains a sample of a contract of employment.

You can view the online interactive toolkit by visiting:  
[www.employingpersonalassistants.co.uk](http://www.employingpersonalassistants.co.uk)

**Main website:** [www.skillsforcare.org.uk](http://www.skillsforcare.org.uk)

## **Your local authority**

You can also get advice and support from your local authority.

This booklet does not constitute legal or other professional advice. The information contained in this booklet is provided as guidance only and should not be regarded as an authoritative statement of the law, which can only be provided by reference to particular circumstances. You should consult your professional adviser for legal or other advice. Information referenced throughout this booklet may be subject to change at any time.



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# Information about the Independent Living Fund (ILF)

This leaflet gives guidance to organisations that may support Independent Living Fund (ILF) users in relation to its closure and the transfer of support to local authorities in England and the devolved administrations in Scotland, Wales and Northern Ireland.

## What is the ILF?

The ILF is a government funded trust that supports nearly 16,000 severely disabled people to live independently within their community.

The original fund was established in 1988 and made regular direct payments to eligible users or their designated representative. The money is paid to enable them to engage personal or domestic care through care agencies or to employ their own personal assistants to provide this support.

From April 1993 changes to the eligibility criteria meant that new applicants had to be in receipt of higher rate Disability Living Allowance and receiving at least £200 per week of local authority support before they could apply to the ILF.

Subsequent revisions to criteria further increased the level of local authority input. This means that most users already have local authority social care, this may be in the form of services (such as a day centre), agency care or direct payments.

Users of the original fund are known as Group 1 users. Users who joined the ILF after April 1993 are referred to as Group 2 users.

## How ILF funding is calculated?

ILF funding is based on an assessment of the users support needs and the costs associated with these needs, less a financial contribution from the user.

## When does the ILF close?

The ILF will close on 30 June 2015. This means that no payments will be made after this date.

The funding for the remainder of financial year 2015/2016 will be transferred to local authorities in England and the devolved administrations in Scotland, Wales and Northern Ireland.

## What will the closure of the ILF mean for existing users?

The closure of the ILF means that all ILF users' care and support needs will be the responsibility of their local authority or their devolved administration.

Users in England will need to discuss with their local authority how their future provision will be met as they have a different eligibility criteria to the ILF concerning what needs a person can receive support for. In most cases users will have an assessment in relation to the criteria used by their local authority.

## Transferring information

Group 2 users details will automatically be transferred to their local authority or devolved administration as permission was given at the time of application.

Group 1 users have been asked for their consent to pass their information on to the new body. If a user has chosen not to give consent, no information will be passed on, the local authority will not have any details of them or won't be aware of their current care needs. The amount of funding they receive from the ILF however, will be passed on.

This will mean the local authority or devolved administration will have the funding in place should the user request an assessment before the end of the 2015/16 financial year. Local authorities must offer a proportionate assessment to anybody who has an appearance of need for care and support, or whose needs or circumstances have changed and then make an eligibility determination accordingly.

## Can ILF users still receive support as a direct payment?

This decision will be made by their local authority. Where users have eligible needs they should be entitled to receive support in a way that suits them and this should include the right to receive direct payments. The local authority should be able to provide information on where to get support to manage a direct payment.

Users should be aware however, that the local authority may have different requirements to the ILF regarding how the money is managed and what records need to be kept.

## What has been done to prepare ILF users for the closure?

Following the decision to close the ILF, users were written to in March 2014 and again in January 2015 to explain how this decision would affect them. Further information and reminders will be sent in March and May 2015. Users will also be sent a transfer guide which will explain their responsibilities.

In addition, every user has had a one to one review meeting with an ILF assessor and where possible, a representative from their local authority. This meeting was to talk about their current care and support needs and to prepare them for what will happen after the ILF closes.

Following this meeting the user would have been sent a comprehensive support plan. This gave information about their current care and support needs, what was important to them, plus what they would like to happen around the delivery and management of their support after the ILF closure. If the user has a social worker, their contact details would also be given in the support plan.

## Local authority criteria

From 1 July 2015, local authorities or the devolved administrations will be responsible for meeting the needs of former ILF users, providing their needs are found to be eligible. They will have to have on-going consideration for a user's wellbeing (which includes 'independent living' and 'control over day to day life'), which begins with the assumption that the user is best placed to judge what they want and need.

## What has been done to prepare local authorities for the closure?

In October 2014, the ILF met representatives from all 151 local authorities in England to talk about the details of the transfer. Local authorities have been informed of what the ILF is doing and what they will need to put in place to ensure a smooth transition. Where permission has been given they have also been given a copy of the user's support plan.

The ILF have also met with the devolved administrations to talk about the new arrangements. The Scottish Government have said that they will protect user's current awards in Scotland through the establishment of a Scottish ILF. The devolved administrations in Wales and Northern Ireland have both held public consultations to help them decide how best to support existing ILF users from 1 July 2015. Once decisions have been announced, ILF users will be told how the new arrangements will affect them.

Before the ILF closes, each local authority and devolved administration will be told where relevant how much money will be transferred to them.

## What other guidance is available?

The ILF have worked with the Association of Directors of Social Services and the Department of Communities and local government to produce a code of practice for English local authorities which sets out expectations and guidance regarding good practice. This can be found on the ILF website [www.gov.uk/ilf](http://www.gov.uk/ilf)

In England, there is a section in the [Guidance to the Care Act](#) about the transfer of ILF support and the responsibilities of local authorities.

The ILF are currently talking to representatives in Wales, NI and Scotland about updating and re-launching their code of practice.

## Where can users get advice about being an employer?

Before the ILF closes, each user will be sent an employer support booklet which has been written in conjunction with ACAS and includes information about contracts and the law.

ACAS also offer free confidential advice to anyone with employment issues. Their helpline number is 0300 1231100. They also have a website [www.acas.org.uk](http://www.acas.org.uk) where more information can be found.



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# Your transfer guide

## **Preparing for the transfer**

From 1 July 2015, your care and support needs will be the responsibility of your local authority if you live in England, or one of the devolved administrations if you live in Scotland, Wales or Northern Ireland. Each new body will determine their own arrangements which you will be notified of separately.

In preparation for the ILF closure, we have visited every ILF user to talk about their support needs and how they think they can achieve the outcomes they need to remain independent.

Between April 2013 and December 2014, you should have had a face to face visit with one of our assessors and where possible, a representative from your local authority. Following that meeting you would have been sent a copy of your support plan.

This contained information about your care and support needs which you told us were important to you. It also captured what you want to happen around the delivery and management of your support after the ILF closes. If you have a social worker their contact details will also be in your support plan.

Between December 2014 and March 2015, we also sent you another copy of your latest ILF support plan to assist with any future discussions about your support.

## **Our responsibilities**

### **Supporting you until 30 June 2015**

As long as you continue to be eligible, we will continue to support you in the usual way until we close. If there are significant changes in your life, such as your benefits change or you start living with someone, we may have to carry out a re-assessment, but we will let you know if this is the case.

If you started to receive help from the ILF after April 1993 your details will automatically be transferred to the new body as permission was given at the time of application.

If you were receiving help from the ILF before April 1993, we will have contacted you recently to ask for your permission to pass your details on to the new body. Providing you gave us your permission we will pass your details on. If you chose not to give us your consent we will not pass any of your details on. You will need to contact your local authority or the new arrangements established by the relevant devolved administration should you find you need care and support in the future.

We will also -

- Look at any significant change of circumstances providing the details of the changes are with us by 1 April 2015. A significant change of circumstances include things like moving local authority.

- Look at any financial changes to your offer, providing the details are with us by 1 May 2015. This includes things like you start to receive an occupational pension or you stop getting a benefit.
- Look at any one-off or additional payment requests providing the details are with us by 1 June 2015. This includes things like DBS checks for a personal assistant, redundancy payments or legal fees.

### **Your payments**

Your last payment from the ILF will be paid in June on your usual payment date. Your bank account will show two separate payments. The first payment will be your normal four-weekly ILF award and the second will be a payment to cover the difference from your usual four-weekly payment date up to 30 June 2015.

### **After ILF closure**

Any enquiries after 30 June 2015 need to be directed to your local authority or the new arrangements established by your devolved administration.

- If you live in England, you should contact your local authority - the details should be in your support plan
- If you live in Scotland, you can email the Scottish ILF at [ScottishILF@scotland.gsi.gov.uk](mailto:ScottishILF@scotland.gsi.gov.uk)
- If you live in Wales, you need to contact the Welsh Government
- If you live in Northern Ireland, you need to contact the Department of Health, Social Services and Public Safety (DHSSPS)



# **Local authority/devolved administrations responsibilities**

## **Transfer preparation**

In October 2014 the ILF met representatives from all 151 local authorities in England to talk about the details of the transfer. We have also been helping the Scottish Government set up the Scottish ILF and have written to users in Scotland with information on how this will work.

Both Wales and Northern Ireland ran consultations in 2014 to find out how users want their support to be given after the ILF has closed, but as yet have not announced how support will be provided.

Before the ILF closes, each local authority or devolved administration will be told how much money will be transferred to them, to enable them to continue to support ILF users.

## **Before ILF closure**

Before 1 July 2015, each local authority should have carried out their own assessment or have contacted you to explain how your support needs will be met after the ILF has closed.

Not all local authorities will do a reassessment before the ILF closes, but we do expect them to reassess at some point during the year.

During the reassessment, it is important that you ask the new body about any eligibility differences, such as -

- who can manage the funding;
- what hourly rate of pay is acceptable; and
- if there are any conditions attached to employing a personal assistant.

In line with the Care Act 2014, all local authorities in England must offer an assessment to anybody who has an appearance of need for care and support, or whose needs or circumstances have changed.

### **After ILF closure**

From 1 July 2015, local authorities in England will have to meet all former ILF users' eligible needs as defined by the Care Act 2014.

Scotland, Wales and Northern Ireland will use their own assessment criteria.

They will need to assess the level of support you are eligible for, as well as consider your wellbeing (which includes 'independent living' and 'control over day to day life').

In Scotland, Wales and Northern Ireland your local authority will contact you if this is necessary.

There are more details about the transfer of responsibilities in the regulations section of the Care Act 2014. A copy is available at [www.GOV.UK](http://www.GOV.UK).

## **Your responsibilities**

### **Keeping records**

You still need to keep records of how you spend your ILF money. These need to show who works for you, what hours they worked, how you paid them and how much you paid them. We may have to reduce the money you get or stop paying you if we ask to see your records and you cannot show them to us.

If you employ your own personal assistant(s) by law you have to keep your records for the last six years. For more information you should contact HMRC. Their employer helpline number is 0300 200 3200 or 0845 714 3143 or visit [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **Changes in your life**

It is still important that you tell us when things change, because it may affect the amount of money you get from us. If you don't tell us about a change in your life, it could lead to an overpayment. (Please see page 8 for a list of changes you need to tell us about.)

An overpayment means that the ILF may have paid you money you should not have had and you will be asked to pay this money back. Even after we have closed any money owing to the ILF will be recovered by the Department for Work and Pensions (DWP).

Changes we need to know include:

- you stop going to a day centre;
- the rate of Disability Living Allowance or Personal Independence Payment (PIP) you get changes;
- you start or stop getting Severe Disability Premium;
- you (or your partner) get a new benefit or stop getting a benefit;
- you have a child or your child leaves home;
- you get married or start to live with your partner;
- you get divorced, or stop living with a partner;
- you go into hospital or residential care even if it is just for a short time;
- you move house;
- someone starts to claim Carer's Allowance for giving care to you;
- your income or your partner's income changes;
- any reduction in your local authority input.

## **Unspent monies**

You may find that sometimes you have money left in your bank account that you have not spent. It may be that you are putting this money aside to pay for your employer costs such as National Insurance contributions for your personal assistant or perhaps your personal assistant's holiday pay.

It may also be that you have not paid for care for a short period, such as you went into hospital and you therefore have some money left over. If this is the case you can keep up to one week of your normal award as a contingency fund. This means you can use this money to pay for any extra care you may need.

If you still have money left over, after all your employer deductions have been put aside as well as your contingency, you need to return this money to us. Please send us a cheque (our address is on the back of this booklet). Please remember to put your reference number on the back of the cheque so we know who has returned the money to us.

Any money you have left over after we have closed will need to be returned to the Department for Work and Pensions (DWP). Their address is -

Finance Department  
5th Floor  
Caxton House  
Tothill Street  
London SW1H 9NA

## **Useful national organisations**

Listed below are some organisations that you may find helpful.

### **Carers UK**

Carers UK is a charity set up to help people who care for family and friends. They provide information and advice about caring alongside practical and emotional support for carers.

- 0808 808 7777 (advice line)
- [www.carersuk.org](http://www.carersuk.org)

### **Dial**

Dial offers a combination of national disability expertise and local knowledge, providing free, impartial and expert information, advice and support to disabled people and their families on a variety of topics .

- 0808 800 3333
- [www.scope.org.uk/dial](http://www.scope.org.uk/dial)

### **Disability Rights UK**

Disability Rights UK is a not for profit organisation that is run and controlled by disabled people. Their primary aim is to promote independent living. They give support and information around Direct payments and Individual Budgets. They also have an Employers Kit which helps employers and prospective employers with issues around employing staff.

They also have links to other organisations who can give advice on benefits, care and debt as well as government departments.

- 020 7250 8181
- [www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)

### **Equalities National Council**

Equalities National council offer advice, advocacy, mentoring and information to support disabled people and carers to access services across health, housing, welfare benefits, social care and access to work.

- 0207 474 9812
- [www.encweb.org.uk](http://www.encweb.org.uk)

### **Royal National Institute for Blind people (RNIB)**

RNIB is the leading charity offering information, support and advice to people with sight loss.

- 0303 123 9999
- [www.rnib.org.uk](http://www.rnib.org.uk)

### **Your local authority**

Your local authority has a legal obligation to provide information about non-residential services. Local authorities are expected to signpost people to community based provision. Please contact them direct for more information about what help they can offer you.

## **Independent Living Fund**

Equinox House  
Island Business Quarter  
City Link  
Nottingham  
NG2 4LA

Phone: 0845 601 8815  
or 0115 945 0700

Fax: 0115 945 0945

Email: [funds@ilf.gsi.gov.uk](mailto:funds@ilf.gsi.gov.uk)

web: [www.gov.uk/ilf](http://www.gov.uk/ilf)

This booklet is available in alternative languages, Braille and audio. If you would like this booklet in an alternative format please contact an ILF caseworker before 30 June 2015.

Any complaint about the ILF after 30 June 2015, should be directed to the Department for Work and Pensions (DWP).



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